

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

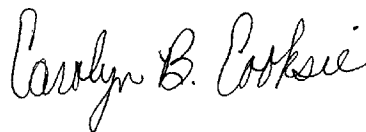
Notice FLP-63

1955-A

For: State and County Offices

Assignment of Native American Loans to a Tribe or the Secretary of the Interior

Approved by: Deputy Administrator, Farm Loan Programs



1 Overview

A

Purpose

This notice provides:

- further guidance regarding the processing of actions before liquidation of loans to Native Americans in Notice FLP-62
- the instructions regarding the assignment of such loans to a Tribe or the Secretary of Interior pursuant to a request by the Native American borrower.

Exhibit 1 provides the Guide Letter format to notify the Tribe of a request by a Native American borrower that the Tribe be assigned such loan.

Exhibit 2 provides the Guide Letter format to notify the Native American borrower of a decision by the Tribe or the Secretary of the Interior to accept the borrower's loan assignment request.

Exhibit 3 provides the Guide Letter format to notify the Native American borrower of a decision by the Tribe or the Secretary of the Interior to deny the borrower's loan assignment request.

Disposal Date

January 1, 2001

Distribution

State Offices; State Offices relay to County Offices

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2 Action

A

Farm Loan Manager (FLM) Responsibilities

FLM's shall, upon receipt of a request from a Native American borrower, in response to a notification provided pursuant to Notice FLP-62, do the following.

Step	Action
1	<p>If the borrower requests that the Tribe be assigned the loan, FLM shall:</p> <ul style="list-style-type: none">• notify the Tribe of the borrower's request using the Guide Letter in Exhibit 1• indicate that the Tribe must respond to FSA regarding its intention to accept such a request within 30 calendar days. <p>This notification shall include the following:</p> <ul style="list-style-type: none">• a copy of the current appraisal of the real estate and valuations of all chattel security• a copy of the borrower's Promissory Note or Notes for the loan to be assigned• a copy of all security instruments• the amount the Tribe would be required to pay FSA for assignment of the loan which shall equal the lesser of the fair market value of all loan security or the principal and interest outstanding on the loan• a statement that the Tribe may pay for the assignment transaction over a period of time under terms similar to the Indian Tribal Land Acquisition Program (ITLAP).
2	<p>If the borrower requests that the Secretary of the Interior be assigned the loan, FLM shall refer the request, with a copy of the following, through SED, to the National FSA Office:</p> <ul style="list-style-type: none">• current appraisal• borrower's Promissory Note or Notes• all security instruments. <p>Note: National Office will work the National Office of BIA to determine if the Secretary of the Interior will accept the assignment of the loan.</p>
3	<p>FLM shall notify the borrower that the request has been forwarded. Once this determination is made, the National FSA Office, through SED, will notify FLM of the decision and how to proceed.</p>
4	<p>Upon receipt of the decision by the Tribe or the Secretary of the Interior to accept the borrower's loan assignment request, FLM shall notify the borrower of the decision, using the Guide Letter in Exhibit 2.</p>
5	<p>If the Tribe has indicated that it will accept an assignment of the loan and seeks to pay for the transaction over a period of time, FLM shall send the Tribe, for the Tribe to execute within 90 calendar days, a promissory note payable to FSA for an amount equal to the amount due in exchange for the assignment of the loan as calculated pursuant to this notice on ITLAP rates and terms; and other loan documents required by FSA to finance this debt under ITLAP rates and terms with an assignment of income from the Tribe as security for the Tribe's loan.</p>

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2 Action (Continued)

A Farm Loan Manager (FLM) Responsibilities (Continued)

Step	Action
6	If the Tribe has timely executed and returned the documents described in item 5, pursuant to guidance from the Regional OGC Office the FLM shall send to the Tribe the original notes of the borrower being assigned, the original mortgages, and any other relevant security instruments with all loan documents properly endorsed or assigned to the Tribe.
7	<p>If the decision of the Tribe or the Secretary of the Interior is not to accept the assignment of the loan, FLM shall:</p> <ul style="list-style-type: none">• notify the borrower, using the Guide Letter in Exhibit 3• proceed with foreclosure action according to applicable procedures. <p>Note: A failure of the Tribe to respond to a request that the Tribe accept an assignment of the loan, or to finalize the loan assignment transaction within the time provided in this notice, shall be treated as a denial of the request.</p>
8	FLM shall keep copies of all letters or documents sent or received in the borrower's loan file.
9	<p>The Finance Office shall process all transactions related to the assignment of a Native American account to a Tribe or the Secretary of the Interior. The Finance Office will require a letter from the servicing office along with a copy of the assignment agreement and promissary note where applicable.</p> <p>In addition, if the loan is being assigned to the Tribe, the Finance Office will need the market value of assignment, number of acres, and annual installments included in the letter.</p> <p>The Finance Office will close out the account and no further action should be required from the servicing office.</p> <p>Payments on the account that is assigned to the Tribe should follow the same guidelines currently used for payment processing.</p>

B Contact

Refer questions about this notice to Robert Zimmerman, LSPMD at 202-690-4011.

Guide Letter Format to Notify the Tribe of a Native American Borrower's Request to Have a Loan Assigned to the Tribe

(Tribe)
(Address)

SUBJECT: Borrower Request that Farm Service Agency Loans (Loan Numbers) Be Assigned to the Tribe

Dear Sir:

This letter concerns the request of (borrower's name) that the enclosed Farm Service Agency loans and security instruments be assigned to the Tribe pursuant to section 335(e)(1)(A)(v) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(e)(1)(A)(v)). We have also enclosed copies of relevant loan and security instruments related to the loan.

If the Tribe agrees to accept the assignment of these loans, the Tribe shall pay FSA (\$) in exchange for the assigned loans. The amount to be paid for the assignment of the loans represents the lesser of the outstanding principal and interest of the loans or the fair market value of the security for the loans. The Tribe may pay for the purchase of the assignment over time under terms and conditions similar to those applicable to the Indian Tribal Land Acquisition Program (ITLAP).

We request that you inform this office of your decision regarding your intention to accept the assignment of the loans by returning to this office a copy of this letter with the appropriate box below marked within 30 calendar days from the date of this letter. If we do not receive a response within this 30-day time period, we will proceed as if you have denied the borrower's request. Your decision must be to either accept assignment of all or none of these loans the borrower has requested be assigned to the Tribe. We will treat any response that does not accept the assignment of all loans as a denial of the borrower's request.

- ☐ Yes, the Tribe intends to accept the borrower's loan assignment request without FSA financing.
- ☐ Yes, the Tribe intends to accept the borrower's loan assignment request with FSA financing.
- ☐ No, the Tribe does not intend to accept the borrower's loan assignment request.

If you have any questions, please contact the undersigned.

Sincerely,

cc: Area Office, BIA
SED/FLC
DD

Enclosures

Guide Letter Format to Notify the Borrower of Acceptance an Assignment Request

(Borrower)
(Address of Borrower)

Dear Borrower:

In response to your request, we submitted a request to the (Tribe or the Secretary of the Interior) to accept an assignment of the following Farm Service Agency Farm Loan Program loans (loan numbers). Your request was granted.

The Farm Service Agency will be transferring the referenced loans to the (Tribe or the Secretary of the Interior). All further contacts and questions concerning these loans should be directed to the (Tribe or the Bureau of Indian Affairs Area Office).

Sincerely,

cc: Tribe
Area Office, BIA
SED/FLC
DD

Guide Letter Format to Notify the Borrower of a Denial of an Assignment Request

(Borrower)
(Address of Borrower)

Dear Borrower:

In response to your request, we submitted a request to the (Tribe or the Secretary of the Interior) to accept the assignment of the following Farm Service Agency Farm Loan Program loans (loan numbers). Unfortunately, your request was denied.

Therefore, you have until (60 calendar days after the date of the letter sent to borrower pursuant to Notice FLP-62) to elect options A, C, or E contained in our letter of (date of letter sent to borrower pursuant to Notice FLP-62). If you do not elect one of these options by the date specified, the Farm Service Agency will immediately refer the matter for a foreclosure action.

Sincerely,

cc: Tribe
Area Office, BIA
SED/FLC
DD